

CLERK OF THE COURT

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Answered.

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SACOM
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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

Ciara Williams,

Plaintiff,

Silvino Hinojosa, and TOPGOLF USA Las Vegas, LLC, DOES 1 through X, inclusive, and ROES through X, inclusive

Defendants.

CASE NO: A-18-784031-C

**SECOND AMENDED COMPLAINT:
(Demand for Trial by Jury)**

1. Assault
 2. Battery
 3. False Imprisonment
 4. Gross Negligence
 5. Negligent Supervision and Retention
 6. Negligent Infliction of Emotional Distress
 7. Intentional Infliction of Emotional Distress
 8. Sexual Harassment
 9. Fraud
 10. Civil Conspiracy

COMES NOW, Plaintiff Ciara Williams, by and through her counsel, James J. Lee, Esq., of Legal Offices of James J. Lee, and as and for her Complaint against Defendants alleges:

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SECOND AMENDED COMPLAINT - 1

1 **PARTIES AND JURISDICTION**

2 1. Plaintiff, Ciara Williams (“Ms. Williams”) is a resident of Clark County, Nevada and
3 at all relevant times was an employee of Defendant TopGolf USA Las Vegas LLC
4 (“TopGolf”).

5 2. Defendant, Silvino Hinojosa (“Hinojosa”) is a resident of Clark County, Nevada, and
6 at all relevant times was a managing agent of TopGolf and in doing the things herein alleged
7 was acting in the course and scope of his employment and/or his conduct was ratified and/or
8 adopted by Defendant TopGolf when it retained and promoted him after TopGolf learned
9 that he committed the wrongful acts alleged herein.

10 3. Defendant TopGolf USA Las Vegas, LLC is a Delaware limited liability company,
11 with its place of business in Clark County, Nevada at 4627 Koval Ln. Las Vegas, NV, 89109.

12 4. That the identities of the Defendants, Does I through X, are unknown at this time and
13 may be individuals, partnerships or corporations. Plaintiff alleges that each of the Defendants
14 designated herein as a Doe defendant are individuals whose true names and capacities are
15 unknown to the Plaintiff and are, therefore, sued by their fictitious names.

16 5. That the names and capacities, whether individual, corporate, associates, co-
17 partnership, or otherwise of Defendants named herein as Roe corporations I through X,
18 inclusive, are unknown to Plaintiff who therefore sue said Defendants by such fictitious
19 names. Plaintiff will ask leave to amend this Complaint to substitute the true names of said
20 Defendants when their true identities become known.

21 6. Plaintiff is informed and believes and thereupon alleges that the Defendants so
22 designated herein as Roe Corporations I through X, inclusive are responsible in some manner
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1 for their agency, master/servant or joint venture relationship with said Defendants, or
2 otherwise contributed to, as a proximate cause, the events complained of herein.

3 7. Plaintiff is informed and believes and thereon alleges that Hinojosa and TopGolf
4 aided and abetted, encouraged, and rendered substantial assistance to each other in breaching
5 their obligations to Plaintiff, as alleged herein. Defendants, and each of them, acted with an
6 awareness of his/its primary wrongdoing, and realized that its conduct would substantially
7 assist the accomplishment of the wrongful conduct, wrongful goals, and wrong doing.

8 **II.**

9 **FACTS**

10 8. In April 2016, Plaintiff, Ciara Williams, 38, commenced work as a fulltime line cook
11 at TopGolf.

12 9. Hinojosa is a serial sexual predator. Hinojosa was William's supervisor in the
13 TopGolf kitchen.

14 10. Commencing in December of 2016, Hinojosa subjected Ms. Williams to daily sexual
15 harassment, including, but not limited to, vulgar and offensive sexual comments and
16 advances; non-consensual touching and groping; thrusting his erect penis against her hips and
17 buttocks while laughing; touching of her buttocks and breasts; and offensive text messaging
18 and phone calls. TopGolf kitchen managers witnessed this highly offensive and unwelcomed
19 conduct and, in violation of TopGolf's own policies and procedures, did nothing to stop it.

20 11. In December of 2016, at a company Christmas party, Hinojosa became highly
21 intoxicated. He made aggressive sexual advances towards Ms. Williams, witnessed by
22 virtually everyone at the party including TopGolf managers, who laughed at his behavior and

1 took no action to intervene. Hinojosa followed Ms. Williams around, groping her, and
2 pulling her towards him. Ms. Williams left the party early to escape Hinojosa.

3 12. When she returned to work, Ms. Williams' male co-workers and managers mocked
4 her. They said things like "Oh you had fun at the party, didn't you?" and "I didn't know you
5 were that kind of girl."

6 13. When Hinojosa made offensive comments and groped Ms. Williams, he would yell
7 out phrases in Spanish which would cause the other Hispanics in the kitchen to laugh.

8 14. Ms. Williams would wear sweaters in the kitchen despite the heat, so that Hinojosa
9 would not be able to touch her bare skin when he groped her. He would say things like, "why
10 don't you show some more skin?"

11 15. Hinojosa sent incessant text messages to Ms. Williams, asking her to meet up for sex.

12 16. Hinojosa would follow Ms. Williams around the kitchen and into the parking lot. On
13 one occasion he showed up at her house rang the doorbell. Terrified, she did not answer.

14 17. When Ms. Williams was hired, she was told that complaints of any kind should be
15 reported to her supervisor or to the next manager in line. While Hinojosa was her immediate
16 supervisor, Chris Vaughn (Vaughn) was the next manager in line. When Ms. Williams
17 complained to Vaughn about Hinojosa's conduct, much of which Vaughn had already
18 witnessed first-hand, he responded by saying that sexual harassment was the norm in a
19 restaurant environment and told her that she should "get used to it." Ms. Williams also went
20 to manager James Linares (Linares) to report Hinojosa. Linares similarly dismissed Ms.
21 William's complaint.

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1 18. Brian Gomez (Gomez), one of Ms. Williams male coworkers, tried to protect her
2 from Hinojosa. The other male workers would torment him for this and say to Gomez things
3 like, "Why are you such a pussy?"

4 19. Finally, on one occasion after she had been physically assaulted by Hinojosa, Ms.
5 Williams reported him to Human Resources (HR). She did so on at least two occasions. Each
6 time she filled out paperwork and was told that her complaints would be investigated and that
7 she would receive copies of the paperwork. No investigation was done, and she never
8 received copies.

9 20. At all relevant times, TopGolf was fully aware of Hinojosa's unlawful conduct both
10 because of Ms. Williams' reports to HR and because it was witnessed by TopGolf's
11 managing agents, was common knowledge amongst all of its employees, and because
12 Hinojosa is a serial sexual predator, who sexually harassed at least four other women
13 working in the TopGolf kitchen during Ms. William's tenure.

14 21. As time passed and nothing was done to protect her from Hinojosa, Ms. Williams,
15 who is a survivor of childhood sexual abuse, became increasingly fearful, depressed, anxious,
16 and withdrawn.

17 22. In or around late May of 2017, Ms. Williams was doing prep work and went alone
18 into the walk-in freezer. Hinojosa followed her in. The walk-in had no windows and thick
19 insulated metal walls that completely blocked any sound.

20 23. Once inside, Hinojosa cornered Ms. Williams into the back of the freezer and said, "I
21 want to talk to you." He put his arms around her and said, "I know you want it."

1 24. She began crying and trying to fight him off, begging him to stop. She screamed for
2 help. He cupped his hand over her mouth and said, "I'm going to have you one way or
3 another."

4 25. Hinojosa pinned her arms behind her, pushed her towards the wall and groped
5 everything from her breasts to her buttocks.

6 26. He began laughing as he forced his hand into her pants and digitally penetrated her
7 vagina, while saying, "I told you I was going to have you." She tried breaking free of his grip
8 by kicking at him and struggling to get her hands free. The more she fought him, the more
9 aggressive he became in penetrating her and injured her vagina. This lasted for at least a
10 minute.

11 27. When he slightly loosened his grip, she got free, pushed him away, and made her way
12 out of the freezer in hysterics. As she stumbled to the exit, Hinojosa laughed and exclaimed,
13 "I'm not going to wash my hand for the rest of the day!"

14 28. Ms. Williams ran out past the kitchen manager's office. She wept uncontrollably for
15 in the locker room. She gathered her things intending to leave and never return, and ran into
16 the parking lot to go home.

17 29. Ms. William's coworker Gomez, who had tried to protect her, saw her running out of
18 the freezer in tears and followed her out to the parking lot. Ms. Williams told him what had
19 happened, and he immediately escorted her to the HR office to report the assault.

20 30. Gomez also found Vaughn, insisting that he join them in the HR office. With Vaughn
21 and Gomez present, Ms. Williams gave a detailed statement about what had happened in the
22 walk-in freezer. Ms. Williams described how Hinojosa had assaulted and penetrated her.
23 She said she wanted to quit. She said she wanted to go to the police.

1 31. The HR manager told Ms. Williams not to quit and instead suggested she take some
2 time off. Vaughn told her not to go to the police because the incident “wasn’t serious enough
3 to involve law enforcement” even though Hinojosa’s forced sexual penetration was a
4 violation of NRS 200.366, a felony punishable by life imprisonment. She was promised HR
5 would investigate and “handle everything.” Ms. Williams agreed to take some time off and
6 took leave for approximately one week.

7 32. For days after the assault Ms. Williams was in pain from the bruises and abrasions
8 she suffered and the injuries to her vagina.

9 33. As noted above, Ms. Williams is an adult survivor of child sexual abuse. Her
10 childhood abuser would come into her room at night and cover her mouth, so she couldn’t
11 scream, just as Hinojosa had done. For this reason, Hinojosa’s sexual assault in the walk-in
12 was particularly devastating, inducing crippling feelings of shame, fear, powerlessness, and
13 self-loathing. Ms. Williams became extremely anxious, depressed, and withdrawn and
14 suffered from insomnia, nightmares, flashbacks, and intrusive memories.

15 34. As is the case with many survivors of childhood sexual abuse, Ms. Williams never
16 told anyone while it was happening as a child. Likewise, Ms. Williams told very few people
17 about Hinojosa’s assault. For months after the assault, the only people that knew about what
18 had happened were those who were present in the HR office on the day of the event.

19 35. Upon her return to work, Vaughn took Ms. Williams aside to tell her “everything had
20 been taken care of” suggesting that Hinojosa had at least been terminated. She did not
21 encounter Hinojosa or hear word of him for nearly six months.

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1 36. Then in or about October 2017, Chris Vaughn took her aside in the kitchen and said,
2 "Hinojosa is now sous chef. Chances are he may work your shift." Upon hearing this,
3 "something inside of [her] broke."

4 37. Beginning in November 2017, Hinojosa was placed on the same shift as Ms.
5 Williams. Hinojosa again was now in charge of the entire kitchen, and there was no one
6 above him who Ms. Williams could report to.

7 38. Ms. Williams became suicidal. She started missing work frequently because she felt
8 unable to face Hinojosa. She was written up for attendance issues and Hinojosa almost
9 always had a hand in writing these citations, though he would have other employees
10 complete the paperwork for him to avoid any evidence of his involvement.

11 39. Most devastatingly, Hinojosa continued to harass Ms. Williams with offensive
12 comments and physical groping, only now he did so less publicly.

13 40. Hinojosa's promotion and assignment to her shift was intolerable and forced Ms.
14 William's resignation, however she had to wait until she could find alternative employment.
15 In April 2018, Ms. Williams found other employment and submitted her letter of resignation.
16 Notably, she did not mention harassment or assault, out of shame and in fear of retaliation.
17 She knew that TopGolf condoned Hinojosa's conduct as evidenced by its promoting rather
18 than terminating and reporting him to the police. She also knew that she would need a
19 positive recommendation from TopGolf

20 41. When Ms. Williams commenced her new job, she was suffering such severe
21 depression and anxiety that she could not perform the essential functions of her employment.
22 She was terminated.

1 42. On information and belief TopGolf destroyed the evidence of Ms. William's prior
2 reports of sexual assault and harassment by Hinojosa. TopGolf encouraged Ms. Williams not
3 to quit to avoid civil liabilities and damages. Even though TopGolf had a duty to report
4 Hinojosa's sexual assault on its premises, it did not do so in order to avoid Hinojosa's
5 harassment and sexual assault becoming common knowledge amongst the employees,
6 potentially triggering other lawsuits by his victims. If TopGolf had not suppressed evidence
7 of Hinojosa's sexual assault, Ms. Williams would have been taken to a hospital for
8 examination of her injuries and collection of DNA evidence. Because of TopGolf's actions
9 that evidence has been lost.

10 **FIRST CAUSE OF ACTION**

11 **(ASSAULT)**

12 43. Plaintiff incorporates by reference each allegation contained in Paragraphs 1 through
13 42 as if fully set forth herein.

14 44. On numerous occasions Hinojosa threatened to touch and touched various parts of
15 Plaintiff's body without her permission or consent.

16 45. In doing such acts Defendant Hinojosa intended to place Plaintiff in apprehension of
17 a harmful or offensive contact with Plaintiff's body.

18 46. As a result of Hinojosa's acts Plaintiff was in fact placed in apprehension of an
19 offensive contact by Hinojosa.

20 47. As a further direct and proximate result, Plaintiff suffered substantial bodily harm and
21 extreme emotional distress all to her damage in an amount to be proven at trial.

1 48. Defendants' actions were malicious, and oppressive, and done in conscious disregard
2 for Plaintiff and Plaintiff is thereby entitled to punitive damages from Defendants and each of
3 them.

4 **SECOND CAUSE OF ACTION**

5 **(BATTERY)**

6 49. Plaintiff incorporates by reference each allegation contained in Paragraphs 1 through
7 48 as if fully set forth herein.

8 50. Hinojosa made contact with Plaintiff's body. Hinojosa touched, grabbed, groped, and
9 fondled Plaintiff in a rude, violent, vulgar, harmful and oppressive manner.

10 51. At all times Plaintiff found the contacts Hinojosa made with her body to be harmful
11 and offensive. At no time did Plaintiff consent to any such contacts.

12 52. As a direct and proximate result of Hinojosa's battery Plaintiff suffered substantial
13 bodily harm and emotional distress all to her damage in an amount to be proven at trial.

14 53. Defendants' actions were malicious, oppressive, and done in conscious disregard for
15 Plaintiff and Plaintiff is thereby entitled to punitive damages from Defendants and each of
16 them.

17 **THIRD CAUSE OF ACTION**

18 **(FALSE IMPRISONMENT)**

19 54. Plaintiff incorporates by reference each allegation contained in Paragraphs 1 through
20 53 as if fully set forth herein.

21 55. As described above, Hinojosa's acts caused Plaintiff's freedom of movement to be
22 restrained in that they prevented Plaintiff from leaving a confined area set up by Hinojosa.

1 56. By reason of such false imprisonment Plaintiff was hindered and prevented from
2 exercising freedom of movement.

3 57. As a direct and proximate result of such false imprisonment Plaintiff suffered
4 substantial bodily harm and extreme emotional distress all to her damage in an amount to be
5 proven at trial.

6 58. By reason of the forceful, and malicious false imprisonment of Plaintiff, Plaintiff is
7 entitled to punitive damages from Defendants and each of them in an amount to be proven at
8 trial.

9 **FOURTH CAUSE OF ACTION**

10 **(GROSS NEGLIGENCE AGAINST TOPGOLF)**

11 59. Plaintiff incorporates by reference each allegation contained in Paragraphs 1 through
12 58 as if fully set forth herein.

13 60. TopGolf had a duty to Plaintiff to keep its workplace safe, its employees free from
14 harassment, and to report serious crimes of violence against its employees, including
15 Plaintiff. At all relevant times, TopGolf knew, or should have known, that Hinojosa was a
16 serial sexual predator who sexually harassed Plaintiff and other female employees in the
17 workplace.

18 61. Hinojosa sexually harassed and assaulted Plaintiff and others on TopGolf's premises.

19 62. TopGolf failed and refused to take action to protect Plaintiff and its other female
20 employees in conscious disregard of its duties to do so.

21 63. As a direct and proximate result of TopGolf's gross negligence Plaintiff suffered
22 substantial bodily harm and extreme emotional distress all to her damage in an amount to be
23 proven at trial.

1 64. TopGolf acted with oppression, fraud, malice, and conscious disregard for Plaintiff's
2 in breaching its duties described herein and Plaintiff is thereby entitled to punitive damages
3 from TopGolf.

4 **FIFTH CAUSE OF ACTION**

5 **(NEGLIGENT SUPERVISION AND RETENTION AGAINST TOPGOLF)**

6 65. Plaintiff incorporates by reference each allegation contained in Paragraphs 1 through
7 64 as if fully set forth herein.

8 66. At all relevant times, TopGolf was aware that Hinojosa was a sexual predator who
9 engaged in sexual harassment and assault against Plaintiff and other employees.

10 67. At all relevant times, TopGolf knew or should have known that Hinojosa's conduct
11 was against company policy and was in violation of applicable law.

12 68. TopGolf had a duty of reasonable care to retain only competent, qualified, and safe
13 employees.

14 69. TopGolf knew that Hinojosa was unfit to work within the workplace and posed a risk
15 to Plaintiff and other female coworkers. TopGolf breached its duty to Plaintiff by retaining
16 Hinojosa as an employee.

17 70. As a direct and proximate result of TopGolf's negligent supervision and retention of
18 Hinojosa, Plaintiff suffered substantial bodily harm and extreme emotional distress all to her
19 damage in an amount to be proven at trial.

20 **SIXTH CAUSE OF ACTION**

21 **(NEGLIGENT INFILCTION OF EMOTIONAL DISTRESS)**

22 71. Plaintiff incorporates by reference each allegation contained in Paragraphs 1 through
23 70 as if fully set forth herein.

1 70. Defendants knew or should have known that the acts and omissions, above
2 described, would cause Plaintiff severe emotional distress.

3 72. As a direct and proximate result of the acts and omissions of Defendants, Plaintiff
4 suffered substantial bodily harm and extreme emotional distress all to her damage in an
5 amount to be proven at trial.

6 **SEVENTH CAUSE OF ACTION**

7 **(INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS)**

8 73. Plaintiff incorporates by reference each allegation contained in Paragraphs 1 through
9 72 as if fully set forth herein.

10 74. As described herein, the conduct of Defendants were extreme and outrageous because
11 the violated criminal and civil statutes and public polices, abused power they had by virtue of
12 the employment relationship and were done intentionally to and with specific to harm
13 Plaintiff or with the recognition that their acts were likely to result in damages to Plaintiff in
14 the form of extreme emotional distress.

15 75. As a proximate result of the acts of Defendants, Plaintiff suffered severe emotional
16 distress, humiliation, anxiety, depression and post-traumatic stress disorder all to her damage
17 in an amount to be proven at trial.

18 76. Defendants' actions were malicious, oppressive, and done in conscious disregard for
19 Plaintiff and Plaintiff is thereby entitled to punitive damages from Defendants and each of
20 them.

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~^ SECOND AMENDED COMPLAINT - 13

EIGHTH CAUSE OF ACTION

(SEXUAL HARASSMENT NRS 613.330)

77. Plaintiff incorporates by reference each allegation contained in Paragraphs 1 through
76 above as if fully set forth herein.

78. At all relevant times Defendant Hinojosa supervised Plaintiff's daily job performance during her employment with TopGolf.

79. Because Hinojosa acted as a managing agent of TopGolf, TopGolf is liable for Hinojosa's actions as its agent and representative and through ratification of his conduct.

80. As outlined throughout this complaint, Hinojosa repeatedly engaged in sexual harassment of Plaintiff during the course of her employment with TopGolf. Said harassment was of a sexual and hostile nature based on Plaintiff's gender. Defendant Hinojosa's sexual advances and assaults were unwelcome, pervasive, and severe.

81. Plaintiff was unable to terminate her relationship with Defendant TopGolf because her employment provided her livelihood, and her employment required her to work with Hinojosa. TopGolf did nothing to stop Hinojosa from harassing Plaintiff while she worked under him.

82. The aforementioned acts were committed by Defendants and/or by managing agents, agents or representatives of Topgolf and/or were known to, aided, abetted, authorized, ratified by or and/or otherwise approved by Topgolf.

83. Defendant's conduct was a substantial factor in causing damage and injury to Plaintiff as alleged herein.

84. Defendant's actions were criminal, fraudulent, malicious and oppressive, and Plaintiff is therefore entitled to punitive damages from Defendants and each of them.

NINTH CAUSE OF ACTION

(FRAUD)

85. Plaintiff incorporates by reference each allegation contained in Paragraphs 1 through above as if fully set forth herein.

86. Topgolf represented to Plaintiff that she should not quit her employment after she reported Hinojosa's rape, that it would terminate Hinojosa and report him to the police and that she would never have to see him again.

87. These representations were false and untrue.

88. Topgolf intended that Plaintiff would rely on said representations and Plaintiff did so rely in staying on as an employee of Topgolf.

89. Topgolf's intentional misrepresentations to Plaintiff, and Plaintiff's reliance on them, were substantial factors in causing damage and injury to Plaintiff as alleged herein.

90. Topgolf's intentional misrepresentations were criminal malicious and oppressive and Plaintiff is therefore entitled to punitive damages in an amount to be proven at trial.

TENTH CAUSE OF ACTION
(CIVIL CONSPIRACY)

91. Plaintiff incorporates by reference each allegation contained in Paragraphs 1 through
90 above as if fully set forth herein.

92. Defendants Topgolf and Hinojosa agreed together to defraud and prevent Plaintiff from reporting the sexual assault and rape to the police in order to induce Plaintiff to stay on as an employee and refrain from reporting the sexual assaults and rape to the police and, later to allow Hinojosa to continue to assault and harass Plaintiff.

93. All Defendants acquired, possessed and maintained a general knowledge of the conspiracy's objectives to inflict wrongs against and/or injure Plaintiff as described in this complaint.

94. Defendants' conspiracy to commit these tortious acts on Plaintiff were a substantial factor in causing injury and damage to Plaintiff as alleged herein.

95. Defendants' conduct was fraudulent, malicious and oppressive and Plaintiff is therefore entitled to punitive damages from Defendants and each of them.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment:

1. Directing Defendants to pay compensatory damages to Plaintiff for:
 - (a) Mental and emotional distress in a sum in excess of \$10,000;
 - (b) General and special damages in a sum in excess of \$10,000;
 - (c) Punitive damages in a sum in excess of \$10,000;
 - (d) Attorney's fees according to law;
 - (e) Costs of suit incurred herein;
 - (e) Such other and further relief as this court deems just and proper.

DEMAND FOR A TRIAL BY JURY

Dated this 28th day of June, 2019.

/s/James Lee
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Attorney for Plaintiff

SECOND AMENDED COMPLAINT - 16

1 CERTIFICATE OF SERVICE

2 Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Legal Offices of
3 James J. Lee, ESQ and that on the 28th day of June, 2019, I caused a true and correct copy of
4 SECOND AMENDED COMPLAINT to be served via the Court's electronic filing and service
5 systems to the following parties and all parties on the current service list.

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18 /s/ Kelly Tassinari

19 Employee of Legal Offices of James J Lee